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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

PIPER ROUNTREE,)	
Plaintiff,)	Civil Action No. 7:11CV00572
)	
v.)	<u>ORDER</u>
)	
HAROLD CLARKE, <u>et al.</u> ,)	By: Hon. Glen E. Conrad
Defendants.)	Chief United States District Judge
_____)	

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

as follows:

1. Defendants' motion for summary judgment (Dkt. No. 99) is GRANTED as to claims one, two, and three and those claims are DISMISSED either under Fed. R. Civ. P. 12(b)(6) or Fed. R. Civ. P. 56, as set forth in the accompanying memorandum opinion. Defendants' motion is also GRANTED as to Rountree's claim for monetary damages under claim four and such claims are DISMISSED. The motion is TAKEN UNDER ADVISEMENT as to the claims for injunctive relief in claim four.

2. Rountree's request for damages under RLUIPA in claim four is DISMISSED and the individual capacity claims against Baskerville in claim four are DISMISSED because Baskerville is entitled to qualified immunity. All other defendants currently in the case are DISMISSED in both their official and individual capacities.

3. Tammy Brown, the current warden of FCCW, is hereby added as a defendant and substituted for Baskerville in her official capacity only, pursuant to Fed. R. Civ. P. 25(d). This substitution will ensure there is a defendant capable of implementing any injunctive relief ordered at the conclusion of any trial.

The only remaining claim in this matter is Rountree's claim for injunctive relief under claim four. The court will hold a summary judgment hearing and give the parties the opportunity to present argument and/or evidence on that claim. Because the only claim remaining in the case is for injunctive relief, moreover, there is no right to a trial by jury. Accordingly, should the court deny the summary judgment motion as to claim four at the conclusion of the summary judgment hearing, the case will be tried beginning the following day as a bench trial. The parties are advised, however, that the court may utilize an advisory jury to determine any disputed issues of fact related to claim four.

Finally, plaintiff is advised (as explained in footnote 14 and as will be set forth in more detail in another order of this court to be issued shortly), that she will have the opportunity to present witnesses and documentary evidence regarding claim four at the March 23, 2015 hearing.

The Clerk is directed to provide copies of this order and the accompanying memorandum opinion to all counsel of record and to Rountree. In addition to providing Rountree a copy via mail, the clerk shall also provide a copy to Rountree via facsimile to an appropriate prison official at FCCW, who shall promptly provide it to Rountree.

ENTERED this 9th day of March, 2015.



Chief United States District Judge